

[Fifth Reprint]
ASSEMBLY, No. 1836

STATE OF NEW JERSEY

INTRODUCED MAY 2, 1996

By Assemblywoman HECK and Assemblyman Kelly

1 AN ACT concerning law enforcement officers, and amending and
2 supplementing parts of statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 ²[1. (New section) As used in this act, unless another meaning is
8 clearly apparent from the language or context:

9 "Law enforcement agency" means any public agency, other than the
10 Department of Law and Public Safety, any police force, department or
11 division within the State of New Jersey, or any county or municipality
12 thereof, which is empowered by statute to act for the detection,
13 investigation, arrest, conviction, detention, or rehabilitation of persons
14 violating the criminal law of this State.

15 "Law enforcement officer" means any person who is employed as
16 a permanent full-time member of any State, county or municipal law
17 enforcement agency, department, or division of those governments
18 who is statutorily empowered to act for the detection, investigation,
19 arrest, conviction, detention, or rehabilitation of persons violating the
20 criminal law of this State and statutorily required to successfully
21 complete a training course approved by or certified as substantially
22 equivalent by the Police Training Commission.]²

23

24 ²[2.] 1.² N.J.S.2C:11-3 is amended to read as follows:

25 2C:11-3. Murder.

26 a. Except as provided in N.J.S.2C:11-4 criminal homicide
27 constitutes murder when:

28 (1) The actor purposely causes death or serious bodily injury
29 resulting in death; or

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ALP committee amendments adopted May 13, 1996.

² Assembly AAP committee amendments adopted June 17, 1996.

³ Assembly floor amendments adopted June 17, 1996.

⁴ Senate floor amendments adopted June 27, 1996.

⁵ Senate floor amendments adopted June 27, 1996.

1 (2) The actor knowingly causes death or serious bodily injury
2 resulting in death; or

3 (3) It is committed when the actor, acting either alone or with one
4 or more other persons, is engaged in the commission of, or an attempt
5 to commit, or flight after committing or attempting to commit robbery,
6 sexual assault, arson, burglary, kidnapping or criminal escape, and in
7 the course of such crime or of immediate flight therefrom, any person
8 causes the death of a person other than one of the participants; except
9 that in any prosecution under this subsection, in which the defendant
10 was not the only participant in the underlying crime, it is an affirmative
11 defense that the defendant:

12 (a) Did not commit the homicidal act or in any way solicit, request,
13 command, importune, cause or aid the commission thereof; and

14 (b) Was not armed with a deadly weapon, or any instrument, article
15 or substance readily capable of causing death or serious physical injury
16 and of a sort not ordinarily carried in public places by law-abiding
17 persons; and

18 (c) Had no reasonable ground to believe that any other participant
19 was armed with such a weapon, instrument, article or substance; and

20 (d) Had no reasonable ground to believe that any other participant
21 intended to engage in conduct likely to result in death or serious
22 physical injury.

23 b. (1) Murder is a crime of the first degree but a person convicted
24 of murder shall be sentenced, except as provided in subsection c. of
25 this section, by the court to a term of 30 years, during which the
26 person shall not be eligible for parole or to a specific term of years
27 which shall be between 30 years and life imprisonment of which the
28 person shall serve 30 years before being eligible for parole.

29 (2) If the victim was a law enforcement officer and was murdered
30 while performing his official duties or was murdered because of his
31 status as a law enforcement officer, the person convicted of that
32 murder shall be sentenced, except as otherwise provided in subsection
33 c. of this section, by the court to a term of life imprisonment²[, during
34 which the person shall not be eligible for parole]³[with no eligibility
35 for parole, as defined in subsection e. of section 2 of P.L.1995, c.126
36 (C.2C:43-7.1)²], during which the person shall not be eligible for
37 parole³.

38 c. Any person convicted under subsection a.(1) or (2) who
39 committed the homicidal act by his own conduct; or who as an
40 accomplice procured the commission of the offense by payment or
41 promise of payment of anything of pecuniary value; or who, as a leader
42 of a narcotics trafficking network as defined in N.J.S.2C:35-3 and in
43 furtherance of a conspiracy enumerated in N.J.S.2C:35-3, commanded
44 or by threat or promise solicited the commission of the offense, shall
45 be sentenced as provided hereinafter:

46 (1) The court shall conduct a separate sentencing proceeding to

1 determine whether the defendant should be sentenced to death or
2 pursuant to the provisions of subsection b. of this section.

3 Where the defendant has been tried by a jury, the proceeding shall
4 be conducted by the judge who presided at the trial and before the jury
5 which determined the defendant's guilt, except that, for good cause,
6 the court may discharge that jury and conduct the proceeding before
7 a jury empaneled for the purpose of the proceeding. Where the
8 defendant has entered a plea of guilty or has been tried without a jury,
9 the proceeding shall be conducted by the judge who accepted the
10 defendant's plea or who determined the defendant's guilt and before a
11 jury empaneled for the purpose of the proceeding. On motion of the
12 defendant and with consent of the prosecuting attorney the court may
13 conduct a proceeding without a jury. Nothing in this subsection shall
14 be construed to prevent the participation of an alternate juror in the
15 sentencing proceeding if one of the jurors who rendered the guilty
16 verdict becomes ill or is otherwise unable to proceed before or during
17 the sentencing proceeding.

18 (2) (a) At the proceeding, the State shall have the burden of
19 establishing beyond a reasonable doubt the existence of any
20 aggravating factors set forth in paragraph (4) of this subsection. The
21 defendant shall have the burden of producing evidence of the existence
22 of any mitigating factors set forth in paragraph (5) of this subsection
23 but shall not have a burden with regard to the establishment of a
24 mitigating factor.

25 (b) The admissibility of evidence offered by the State to establish
26 any of the aggravating factors shall be governed by the rules governing
27 the admission of evidence at criminal trials. The defendant may offer,
28 without regard to the rules governing the admission of evidence at
29 criminal trials, reliable evidence relevant to any of the mitigating
30 factors. If the defendant produces evidence in mitigation which would
31 not be admissible under the rules governing the admission of evidence
32 at criminal trials, the State may rebut that evidence without regard to
33 the rules governing the admission of evidence at criminal trials.

34 (c) Evidence admitted at the trial, which is relevant to the
35 aggravating and mitigating factors set forth in paragraphs (4) and (5)
36 of this subsection, shall be considered without the necessity of
37 reintroducing that evidence at the sentencing proceeding; provided
38 that the fact finder at the sentencing proceeding was present as either
39 the fact finder or the judge at the trial.

40 (d) The State and the defendant shall be permitted to rebut any
41 evidence presented by the other party at the sentencing proceeding and
42 to present argument as to the adequacy of the evidence to establish the
43 existence of any aggravating or mitigating factor.

44 (e) Prior to the commencement of the sentencing proceeding, or at
45 such time as he has knowledge of the existence of an aggravating
46 factor, the prosecuting attorney shall give notice to the defendant of

1 the aggravating factors which he intends to prove in the proceeding.

2 (f) Evidence offered by the State with regard to the establishment
3 of a prior homicide conviction pursuant to paragraph (4)(a) of this
4 subsection may include the identity and age of the victim, the manner
5 of death and the relationship, if any, of the victim to the defendant.

6 (3) The jury or, if there is no jury, the court shall return a special
7 verdict setting forth in writing the existence or nonexistence of each
8 of the aggravating and mitigating factors set forth in paragraphs (4)
9 and (5) of this subsection. If any aggravating factor is found to exist,
10 the verdict shall also state whether it outweighs beyond a reasonable
11 doubt any one or more mitigating factors.

12 (a) If the jury or the court finds that any aggravating factors exist
13 and that all of the aggravating factors outweigh beyond a reasonable
14 doubt all of the mitigating factors, the court shall sentence the
15 defendant to death.

16 (b) If the jury or the court finds that no aggravating factors exist,
17 or that all of the aggravating factors which exist do not outweigh all
18 of the mitigating factors, the court shall sentence the defendant
19 pursuant to subsection b.

20 (c) If the jury is unable to reach a unanimous verdict, the court
21 shall sentence the defendant pursuant to subsection b.

22 (4) The aggravating factors which may be found by the jury or the
23 court are:

24 (a) The defendant has been convicted, at any time, of another
25 murder. For purposes of this section, a conviction shall be deemed
26 final when sentence is imposed and may be used as an aggravating
27 factor regardless of whether it is on appeal;

28 (b) In the commission of the murder, the defendant purposely or
29 knowingly created a grave risk of death to another person in addition
30 to the victim;

31 (c) The murder was outrageously or wantonly vile, horrible or
32 inhuman in that it involved torture, depravity of mind, or an
33 aggravated assault to the victim;

34 (d) The defendant committed the murder as consideration for the
35 receipt, or in expectation of the receipt of anything of pecuniary value;

36 (e) The defendant procured the commission of the offense by
37 payment or promise of payment of anything of pecuniary value;

38 (f) The murder was committed for the purpose of escaping
39 detection, apprehension, trial, punishment or confinement for another
40 offense committed by the defendant or another;

41 (g) The offense was committed while the defendant was engaged
42 in the commission of, or an attempt to commit, or flight after
43 committing or attempting to commit murder, robbery, sexual assault,
44 arson, burglary or kidnapping;

45 (h) The defendant murdered a public servant, as defined in
46 N.J.S.2C:27-1, while the victim was engaged in the performance of his

- 1 official duties, or because of the victim's status as a public servant;
- 2 (i) The defendant: (i) as a leader of a narcotics trafficking network
3 as defined in N.J.S.2C:35-3 and in furtherance of a conspiracy
4 enumerated in N.J.S.2C:35-3, committed, commanded or by threat or
5 promise solicited the commission of the offense or (ii) committed the
6 offense at the direction of a leader of a narcotics trafficking network
7 as defined in N.J.S.2C:35-3 in furtherance of a conspiracy enumerated
8 in N.J.S.2C:35-3;
- 9 (j) The homicidal act that the defendant committed or procured
10 was in violation of paragraph (1) of subsection a. of N.J.S.2C:17-2; or
- 11 (k) The victim was less than 14 years old.
- 12 (5) The mitigating factors which may be found by the jury or the
13 court are:
- 14 (a) The defendant was under the influence of extreme mental or
15 emotional disturbance insufficient to constitute a defense to
16 prosecution;
- 17 (b) The victim solicited, participated in or consented to the
18 conduct which resulted in his death;
- 19 (c) The age of the defendant at the time of the murder;
- 20 (d) The defendant's capacity to appreciate the wrongfulness of his
21 conduct or to conform his conduct to the requirements of the law was
22 significantly impaired as the result of mental disease or defect or
23 intoxication, but not to a degree sufficient to constitute a defense to
24 prosecution;
- 25 (e) The defendant was under unusual and substantial duress
26 insufficient to constitute a defense to prosecution;
- 27 (f) The defendant has no significant history of prior criminal
28 activity;
- 29 (g) The defendant rendered substantial assistance to the State in
30 the prosecution of another person for the crime of murder; or
- 31 (h) Any other factor which is relevant to the defendant's character
32 or record or to the circumstances of the offense.
- 33 (6) When a defendant at a sentencing proceeding presents evidence
34 of the defendant's character or record pursuant to subparagraph (h) of
35 paragraph (5) of this subsection, the State may present evidence of the
36 murder victim's character and background and of the impact of the
37 murder on the victim's survivors. If the jury finds that the State has
38 proven at least one aggravating factor beyond a reasonable doubt and
39 the jury finds the existence of a mitigating factor pursuant to
40 subparagraph (h) of paragraph (5) of this subsection, the jury may
41 consider the victim and survivor evidence presented by the State
42 pursuant to this paragraph in determining the appropriate weight to
43 give mitigating evidence presented pursuant to subparagraph (h) of
44 paragraph (5) of this subsection.
- 45 d. The sentencing proceeding set forth in subsection c. of this
46 section shall not be waived by the prosecuting attorney.

1 e. Every judgment of conviction which results in a sentence of
2 death under this section shall be appealed, pursuant to the Rules of
3 Court, to the Supreme Court. Upon the request of the defendant, the
4 Supreme Court shall also determine whether the sentence is
5 disproportionate to the penalty imposed in similar cases, considering
6 both the crime and the defendant. Proportionality review under this
7 section shall be limited to a comparison of similar cases in which a
8 sentence of death has been imposed under subsection c. of this section.
9 In any instance in which the defendant fails, or refuses to appeal, the
10 appeal shall be taken by the Office of the Public Defender or other
11 counsel appointed by the Supreme Court for that purpose.

12 f. Prior to the jury's sentencing deliberations, the trial court shall
13 inform the jury of the sentences which may be imposed pursuant to
14 subsection b. of this section on the defendant if the defendant is not
15 sentenced to death. The jury shall also be informed that a failure to
16 reach a unanimous verdict shall result in sentencing by the court
17 pursuant to subsection b.

18 g. A juvenile who has been tried as an adult and convicted of
19 murder shall not be sentenced pursuant to the provisions of subsection
20 c. but shall be sentenced pursuant to the provisions of subsection b. of
21 this section.

22 h. In a sentencing proceeding conducted pursuant to this section,
23 no evidence shall be admissible concerning the method or manner of
24 execution which would be imposed on a defendant sentenced to death.

25 i. For purposes of this section the term "homicidal act" shall mean
26 conduct that causes death or serious bodily injury resulting in death.
27 (cf: P.L.1995, c.123, s.1)

28

29 ²[3. N.J.S.40A:14-117 is amended to read as follows:

30 40A:14-117. Whenever a member or officer of a county police, or
31 county park police, department or force is a defendant in any action or
32 legal proceeding arising out of or incidental to the performance of his
33 duties, the governing body of the county, or county park commission,
34 as the case may be, shall provide said member or officer with
35 necessary means for the defense of such action or proceeding, other
36 than for his defense in a disciplinary proceeding instituted against him
37 by the county or park commission, or in a criminal proceeding
38 instituted as a result of a complaint on behalf of the county or park
39 commission. [If] Notwithstanding the provisions of this section, if
40 any such disciplinary or criminal proceeding instituted by or on
41 complaint of the county or park commission, or any other legal
42 proceeding ¹arising out of or incidental to the performance of his
43 duties¹ in which the member or officer is the defendant shall be
44 dismissed or finally determined in favor of the member or officer, he
45 shall be reimbursed for the expense of his defense.

46 (cf: P.L.1977, c.455, s.1)]²

1 ²[4.] 2.² N.J.S.40A:14-147 is amended to read as follows:

2 40A:14-147. Except as otherwise provided by law, no permanent
3 member or officer of the police department or force shall be removed
4 from his office, employment or position for political reasons or for any
5 cause other than incapacity, misconduct, or disobedience of rules and
6 regulations established for the government of the police department
7 and force, nor shall such member or officer be suspended, removed,
8 fined or reduced in rank from or in office, employment, or position
9 therein, except for just cause as hereinbefore provided and then only
10 upon a written complaint setting forth the charge or charges against
11 such member or officer. [Said] The complaint shall be filed in the
12 office of the body, officer or officers having charge of the department
13 or force wherein the complaint is made and a copy shall be served
14 upon the member or officer so charged, with notice of a designated
15 hearing thereon by the proper authorities, which shall be not less than
16 10 nor more than 30 days from date of service of the complaint.

17 A complaint charging a violation of the internal rules and
18 regulations established for the conduct of a law enforcement unit shall
19 be filed no later than the 45th day after the date on which the person
20 filing the complaint obtained sufficient information to file the matter
21 upon which the complaint is based. The 45-day time limit shall not
22 apply if an investigation of a law enforcement officer for a violation of
23 the internal rules or regulations of the law enforcement unit is included
24 directly or indirectly within a concurrent investigation of that officer
25 for a violation of the criminal laws of this State. The 45-day limit shall
26 begin on the day after the disposition of the criminal investigation.
27 The 45-day requirement of this paragraph for the filing of a complaint
28 against an officer shall not apply to a filing of a complaint by a private
29 individual.

30 A failure to comply with said provisions as to the service of the
31 complaint and the time within which a complaint is to be filed shall
32 require a dismissal of the complaint.

33 ¹[Notwithstanding any provisions of this Title or Title 11A to the
34 contrary, any person designated to consider a complaint filed pursuant
35 to the provisions of this section shall not be an officer, agent,
36 representative, elected or appointed official, or employee of the
37 municipality or county or any subdivision thereof.]¹ The law
38 enforcement officer may waive the right to a hearing and may appeal
39 the charges directly to any available authority specified by ²[any
40 other]² law ¹[of] or ¹ ²[the Department of Personnel] regulation² , or
41 follow any other procedure recognized by a contract, as permitted by
42 law.

43 ²[No penalty shall be imposed ¹in any administrative proceeding¹
44 pending the final outcome of this appeal] ⁵[Prior to imposition of
45 discipline, a member or officer employed by a municipality that has not
46 adopted the provisions of Title 11A of the New Jersey Statutes shall

1 be afforded procedural protections substantially equivalent to those
 2 afforded under Title 11A of the New Jersey Statutes and the
 3 regulations adopted pursuant thereto².]⁵

4 (cf: P.L.1988, c.145, s.1)

5
 6 ²[5. N.J.S.40A:14-155 is amended to read as follows:

7 40A:14-155. Whenever a member or officer of a municipal police
 8 department or force is a defendant in any action or legal proceeding
 9 arising out of and directly related to the lawful exercise of police
 10 powers in the furtherance of his official duties, the governing body of
 11 the municipality shall provide said member or officer with necessary
 12 means for the defense of such action or proceeding, but not for his
 13 defense in a disciplinary proceeding instituted against him by the
 14 municipality or in criminal proceeding instituted as a result of a
 15 complaint on behalf of the municipality. [If] Notwithstanding the
 16 provisions of this section, if any such disciplinary or criminal
 17 proceeding instituted by or on the complaint of the municipality, or if
 18 any other legal [action or] proceeding [instituted by or on complaint
 19 of the municipality] ¹arising out of and directly related to the lawful
 20 exercise of police powers in the furtherance of his official duties¹ in
 21 which the member or officer is the defendant shall be dismissed or
 22 finally determined in favor of the member or officer, [he] the officer
 23 shall be reimbursed for the expense of his defense.

24 (cf: P.L.1985, c.457, s.1)]²

25
 26 ²[6] 3.². Section 1 of P.L.1977, c.437 (C.40A:14-152.2) is
 27 amended to read as follows:

28 1. Whenever any municipal police officer ²[or other law
 29 enforcement officer, as defined in section 2 of P.L. , c. (C.)
 30 (now pending before the Legislature as this bill).]² ⁴or other law
 31 enforcement officer⁴ has been conferred with Statewide police powers
 32 and is acting under lawful authority beyond the territorial limits of his
 33 employing municipality or other appointing authority, said police
 34 officer or law enforcement officer, as the case may be, shall have all of
 35 the immunities from tort liability and shall have all of the pension,
 36 relief, disability, workmen's compensation, insurance, and other
 37 benefits enjoyed while performing duties within said employing
 38 municipality or the jurisdictional responsibility of the other appointing
 39 authority, as the case may be⁴ ; provided, however, in the case of a
 40 law enforcement officer other than a municipal police officer or a
 41 county law enforcement officer afforded such immunities and benefits
 42 under the provisions of section 1 of P.L.1977, c.439 (C.40A:14-
 43 107.1), the immunities from tort liability and other benefits enjoyed
 44 while performing duties within the jurisdictional responsibility of the
 45 appointing authority shall be extended only in those instances where
 46 (1) the law enforcement officer has been requested by the other

1 jurisdiction to perform law enforcement duties within its boundaries;
2 or (2) the law enforcement officer is performing law enforcement
3 duties within another jurisdiction upon the orders of his superiors ⁴.

4 ²As used in this section, "law enforcement officer" means any
5 person who is employed as a permanent full-time member of any State,
6 county or municipal law enforcement agency, department, or division
7 of those governments who is statutorily empowered to act for the
8 detection, investigation, arrest, conviction, detention, or rehabilitation
9 of persons violating the criminal laws of this State and statutorily
10 required to successfully complete a training course approved by, or
11 certified as being substantially equivalent to such an approved course,
12 by the Police Training Commission pursuant to P.L.1961, c.56
13 (C.52:17B-66 et seq.). "Law enforcement agency" means any public
14 agency, other than the Department of Law and Public Safety, any
15 police force, department or division within the State of New Jersey, or
16 any county or municipality thereof, which is empowered by statute to
17 act for the detection, investigation, arrest, conviction, detention, or
18 rehabilitation of persons violating the criminal laws of this State.²
19 (cf: P.L.1977, c.437, s.1)

20
21 ²[7. Section 1 of P.L.1973, c.353 (C.40:37-11.5) is amended to
22 read as follows:

23 1. Whenever a member or officer of a county park police system
24 is a defendant in any action or legal proceeding arising out of or
25 incidental to the performance of his duties, the county park
26 commission shall provide said member or officer with necessary and
27 reasonable means for the defense of such action or proceeding, other
28 than for his defense in a disciplinary proceeding instituted against him
29 by the county park commission or in a criminal proceeding instituted
30 as a result of a complaint on behalf of the park commission. [If]
31 Notwithstanding the provisions of this section, if any such disciplinary
32 or criminal proceeding instituted by or on complaint of the park
33 commission, or if any other legal proceeding ¹arising out of or
34 incidental to the performance of his duties¹ in which the member or
35 officer is the defendant shall be dismissed or finally determined in
36 favor of the member or officer, he shall be reimbursed for the
37 reasonable expense of his defense.

38 (cf: P.L.1973, c.353, c.1)]²

39
40 ²[8. Section 4 of P.L.1970, c.211 (C.18A:6-4.5) is amended to
41 read as follows:

42 4. Every person so appointed and commissioned shall possess all
43 the powers of policemen and constables in criminal cases and offenses
44 against the law anywhere in the State of New Jersey [, pursuant to any
45 limitations as may be imposed by the governing body of the institution
46 which appointed and commissioned the person].

1 (cf: P.L.1991, c.327, s.1)]²

2

3 ²[9.] 4.² Section 7 of P.L.1968, c.303 (C.34:13A-5.3) is amended
4 to read as follows:

5 7. Except as hereinafter provided, public employees shall have, and
6 shall be protected in the exercise of, the right, freely and without fear
7 of penalty or reprisal, to form, join and assist any employee
8 organization or to refrain from any such activity; provided, however,
9 that this right shall not extend to elected officials, members of boards
10 and commissions, managerial executives, or confidential employees,
11 except in a school district the term managerial executive shall mean the
12 superintendent of schools or his equivalent, nor, except where
13 established practice, prior agreement or special circumstances, dictate
14 the contrary, shall any supervisor having the power to hire, discharge,
15 discipline, or to effectively recommend the same, have the right to be
16 represented in collective negotiations by an employee organization that
17 admits nonsupervisory personnel to membership, and the fact that any
18 organization has such supervisory employees as members shall not
19 deny the right of that organization to represent the appropriate unit in
20 collective negotiations; and provided further, that, except where
21 established practice, prior agreement, or special circumstances dictate
22 the contrary, no policeman shall have the right to join an employee
23 organization that admits employees other than policemen to
24 membership. The negotiating unit shall be defined with due regard for
25 the community of interest among the employees concerned, but the
26 commission shall not intervene in matters of recognition and unit
27 definition except in the event of a dispute.

28 Representatives designated or selected by public employees for the
29 purposes of collective negotiation by the majority of the employees in
30 a unit appropriate for such purposes or by the majority of the
31 employees voting in an election conducted by the commission as
32 authorized by this act shall be the exclusive representatives for
33 collective negotiation concerning the terms and conditions of
34 employment of the employees in such unit. Nothing herein shall be
35 construed to prevent any official from meeting with an employee
36 organization for the purpose of hearing the views and requests of its
37 members in such unit so long as (a) the majority representative is
38 informed of the meeting; (b) any changes or modifications in terms and
39 conditions of employment are made only through negotiation with the
40 majority representative; and (c) a minority organization shall not
41 present or process grievances. Nothing herein shall be construed to
42 deny to any individual employee his rights under Civil Service laws or
43 regulations. When no majority representative has been selected as the
44 bargaining agent for the unit of which an individual employee is a part,
45 he may present his own grievance either personally or through an
46 appropriate representative or an organization of which he is a member

1 and have such grievance adjusted.

2 A majority representative of public employees in an appropriate unit
3 shall be entitled to act for and to negotiate agreements covering all
4 employees in the unit and shall be responsible for representing the
5 interest of all such employees without discrimination and without
6 regard to employee organization membership. Proposed new rules or
7 modifications of existing rules governing working conditions shall be
8 negotiated with the majority representative before they are established.
9 In addition, the majority representative and designated representatives
10 of the public employer shall meet at reasonable times and negotiate in
11 good faith with respect to grievances, disciplinary disputes, and other
12 terms and conditions of employment. Nothing herein shall be
13 construed as permitting negotiation of the standards or criteria for
14 employee performance.

15 When an agreement is reached on the terms and conditions of
16 employment, it shall be embodied in writing and signed by the
17 authorized representatives of the public employer and the majority
18 representative.

19 Public employers shall negotiate written policies setting forth
20 grievance and disciplinary review procedures by means of which their
21 employees or representatives of employees may appeal the
22 interpretation, application or violation of policies, agreements, and
23 administrative decisions, including disciplinary determinations,
24 affecting them, provided that such grievance and disciplinary review
25 procedures shall be included in any agreement entered into between
26 the public employer and the representative organization. Such
27 grievance and disciplinary review procedures may provide for binding
28 arbitration as a means for resolving disputes. The procedures agreed
29 to by the parties may not replace or be inconsistent with any alternate
30 statutory appeal procedure [nor may they provide for binding
31 arbitration of disputes involving the discipline of employees with
32 statutory protection under] ²[for the specific form of discipline
33 imposed, but may provide for binding arbitration of any form of
34 discipline which is not specifically covered by] nor may they provide
35 for binding arbitration of disputes involving the discipline of
36 employees with statutory protection under² tenure or civil service laws
37 ², except that such procedures may provide for binding arbitration of
38 disputes involving the minor discipline of any public employees
39 protected under the provisions of P.L.1968, c.303 (C.34:13A-5.3),
40 other than public employees subject to discipline pursuant to R.S.53:1-
41 10². Grievance and disciplinary review procedures established by
42 agreement between the public employer and the representative
43 organization shall be utilized for any dispute covered by the terms of
44 such agreement. ²[The provisions of this paragraph shall apply to all
45 public employees and employers.] For the purposes of this section,
46 minor discipline shall mean a suspension or fine of less than five days

1 unless the employee has been suspended or fined an aggregate of 15
2 or more days or received more than three suspensions or fines of five
3 days or less in one calendar year.²

4 (cf: P.L.1982, c.103, s.1)

5

6 ²[10. Section 1 of P.L.1963, c.140 (C.2A:62A-1) is amended to
7 read as follows:

8 1. Any individual, including (a) a person licensed to practice any
9 method of treatment of human ailments, disease, pain, injury,
10 deformity, mental or physical condition, or licensed to render services
11 ancillary thereto, or (b) any person who is a volunteer member of a
12 duly incorporated first aid and emergency or volunteer ambulance or
13 rescue squad association, or (c) any municipal, county or State law
14 enforcement officer, who ¹,¹ in good faith ¹and provided reasonable
15 care is exercised,¹ renders emergency care at the scene of an accident
16 or emergency to the victim or victims thereof, or while transporting
17 the victim or victims thereof to a hospital or other facility where
18 treatment or care is to be rendered, shall not be liable for any civil
19 damages as a result of any acts or omissions by such person in
20 rendering the emergency care.

21 (cf: P.L.1987, c.296, s.1)]²

22

23 ²5. (New section) A municipal, county or State law enforcement
24 officer is not liable for any civil damages as a result of any acts or
25 omissions undertaken in good faith in rendering care at the scene of an
26 accident or emergency to any victim thereof, or in transporting any
27 such victim to a hospital or other facility where treatment or care is to
28 be rendered; provided, however, that nothing in this section shall
29 exonerate a law enforcement officer for gross negligence.²

30

31 ²[11.] 6.² Section 6 of P.L.1961, c.56 (C.52:17B-71) is amended
32 to read as follows:

33 ¹[52:17-71 Power of commission]¹

34 6. The commission is vested with the power, responsibility and
35 duty:

36 a. To prescribe standards for the approval and continuation of
37 approval of schools at which police training courses authorized by this
38 act and in-service police training courses shall be conducted, including
39 but not limited to presently existing regional, county, municipal and
40 police chief association police training schools or at which basic
41 training courses and in-service training courses shall be conducted for
42 State and county juvenile and adult corrections officers and juvenile
43 detention officers;

44 b. To approve and issue certificates of approval to such schools,
45 to inspect such schools from time to time, and to revoke any approval
46 or certificate issued to such schools;

- 1 c. To prescribe the curriculum, the minimum courses of study,
2 attendance requirements, equipment and facilities, and standards of
3 operation for such schools. Courses of study in crime prevention may
4 be recommended to the Police Training Commission by the Crime
5 Prevention Advisory Committee, established by section 2 of P.L.1985,
6 c.1 (C.52:17B-77.1). The Police Training Commission may prescribe
7 psychological and psychiatric examinations for police recruits while in
8 such schools;
- 9 d. To prescribe minimum qualifications for instructors at such
10 schools and to certify, as qualified, instructors for approved police
11 training schools and to issue appropriate certificates to such
12 instructors;
- 13 e. To certify police officers, corrections officers, juvenile
14 corrections officers and juvenile detention officers who have
15 satisfactorily completed training programs and to issue appropriate
16 certificates to such police officers, corrections officers, juvenile
17 corrections officers and juvenile detention officers;
- 18 f. To advise and consent in the appointment of an administrator of
19 police services by the Attorney General pursuant to section 8 of
20 P.L.1961, c.56 (C.52:17B-73);
- 21 g. (Deleted by amendment, P.L.1985, c.491.)
- 22 h. To make such rules and regulations as may be reasonably
23 necessary or appropriate to accomplish the purposes and objectives of
24 this act;
- 25 i. To make a continuous study of police training methods and
26 training methods for corrections officers, juvenile corrections officers
27 and juvenile detention officers and to consult and accept the
28 cooperation of any recognized federal or State law enforcement
29 agency or educational institution;
- 30 j. To consult and cooperate with universities, colleges and
31 institutes in the State for the development of specialized courses of
32 study for police officers in police science and police administration;
- 33 k. To consult and cooperate with other departments and agencies
34 of the State concerned with police training or the training of
35 corrections officers, juvenile corrections officers and juvenile detention
36 officers;
- 37 l. To participate in unified programs and projects relating to police
38 training and the training of corrections officers, juvenile corrections
39 officers and juvenile detention officers sponsored by any federal, State,
40 or other public or private agency;
- 41 m. To perform such other acts as may be necessary or appropriate
42 to carry out its functions and duties as set forth in this act;
- 43 n. To extend the time limit for satisfactory completion of police
44 training programs or programs for the training of corrections officers,
45 juvenile corrections officers and juvenile detention officers upon a
46 finding that health, extraordinary workload or other factors have,

1 singly or in combination, effected a delay in the satisfactory
2 completion of such training program;

3 o. To furnish approved schools, for inclusion in their regular police
4 training courses and curriculum, with information concerning the
5 advisability of high speed chases, the risk caused thereby, and the
6 benefits resulting therefrom;

7 p. To review and approve new standards and course curricula
8 developed by the Department of Corrections for both basic and
9 in-service training of State and county corrections officers and juvenile
10 detention officers. These courses for the State corrections officers and
11 juvenile detention officers shall be centrally provided at the
12 Corrections Officers' Training Academy of the Department of
13 Corrections. Courses for the county corrections officers and juvenile
14 detention officers shall also be centrally provided at the Corrections
15 Officers' Training Academy unless an off-grounds training program is
16 established by the county. A county may elect to establish and
17 conduct a basic training program for corrections officers and juvenile
18 detention officers seeking permanent appointment in that county. The
19 Corrections Officers' Training Academy shall develop the curriculum
20 of the basic training program to be conducted by a county.;

21 q. To administer and distribute the monies in the Law Enforcement
22 Officers Training and Equipment Fund established by section ²[¹[17]
23 16¹] ² of P.L....., c.... (C.....)(now pending before the Legislature
24 as this bill) and make such rules and regulations for the administration
25 and distribution of the monies as may be necessary or appropriate to
26 accomplish the purpose for which the fund was established.

27 (cf: P.L.1995, c.280, s.55)

28

29 ²[12. (New section) Notwithstanding any provisions of law to the
30 contrary, a law enforcement officer who is authorized to carry a
31 firearm under the provisions of N.J.S.2C:39-6, and who in the lawful
32 exercise of his police powers in the furtherance of his official duties,
33 and consistent with all applicable departmental policies and guidelines,
34 discharges or fires that weapon shall not be liable in any civil action for
35 damages resulting from that discharging or firing. Nothing in this
36 section shall be deemed to grant immunity to any law enforcement
37 officer causing any damage by his willful, wanton, or grossly negligent
38 act of commission or omission.]²

39

40 ²[13.] 7.² (New section) a. In addition to any other disposition
41 made pursuant to law, a court shall order a person convicted of,
42 indicted for or formally charged with a criminal offense, a disorderly
43 persons offense or a petty disorderly persons offense, to submit to an
44 approved serological test for acquired immune deficiency syndrome
45 (AIDS) or infection with the human immunodeficiency virus (HIV) or
46 any other related virus identified as a probable causative agent of

1 AIDS if:

2 (1) in the course of the commission of the offense, including the
3 immediate flight thereafter or during any investigation or arrest related
4 to that offense, a law enforcement officer, the victim or other person
5 suffered a prick from a hypodermic needle, provided there is probable
6 cause to believe that the defendant is an intravenous user of controlled
7 dangerous substances; or

8 (2) in the course of the commission of the offense, including the
9 immediate flight thereafter or during any investigation or arrest related
10 to that offense, a law enforcement officer, the victim or other person
11 had contact with the defendant which involved or was likely to involve
12 the transmission of bodily fluids.

13 The court may order a person to submit to an approved serological
14 test for AIDS or infection with the HIV or any other related virus
15 identified as a probable cause agent of AIDS if in the course of the
16 performance of any other law enforcement duties, a law enforcement
17 officer suffers a prick from a hyperdermic needle, provided that there
18 is probable cause to believe that the defendant is an intravenous user
19 of controlled dangerous substances, or had contact with the defendant
20 which involved or was likely to involve the transmission of bodily
21 fluids. The court shall issue such an order only upon the request of the
22 law enforcement officer, victim of the offense or other affected person
23 made at the time of indictment, charge or conviction. If a county
24 prosecutor declines to make such an application within 72 hours of
25 being requested to do so by the law enforcement officer, the law
26 enforcement officer may appeal to the Division of Criminal Justice in
27 the Department of Law and Public Safety for that officer to bring the
28 application. The person shall be ordered by the court to submit to
29 such repeat or confirmatory tests as may be medically necessary.

30 As used in this section, "formal charge" includes a proceeding by
31 accusation in the event that the defendant has waived the right to an
32 indictment.

33 b. A court order issued pursuant to subsection a. of this section
34 shall require testing to be performed as soon as practicable by the
35 Commissioner of the Department of Corrections pursuant to authority
36 granted to the commissioner by sections 6 and 10 of P.L.1976, c.98
37 (C.30:1B-6 and 30:1B-10) or by a provider of health care or at a
38 health care facility licensed pursuant to section 12 of P.L.1971, c.136
39 (C.26:2H-12). The order shall also require that the results of the test
40 be reported to the offender, the appropriate Office of Victim-Witness
41 Advocacy if a victim of an offense is tested, and the affected law
42 enforcement officer. Upon receipt of the result of a test ordered
43 pursuant to subsection a. of this section, the Office of Victim-Witness
44 Advocacy shall provide the victim with appropriate counseling, referral
45 for counseling and if appropriate, referral for health care. The office
46 shall notify the victim or make appropriate arrangements for the victim

1 to be notified of the test result.

2 c. In addition to any other disposition authorized, a court may
3 order an offender at the time of sentencing to reimburse the State for
4 the costs of the tests ordered pursuant to subsection a. of this section.

5 d. The result of a test ordered pursuant to subsection a. of this
6 section shall be confidential and health care providers and employees
7 of the Department of Corrections, the Office of Victim-Witness
8 Advocacy, a health care facility or counseling service shall not disclose
9 the result of a test performed pursuant to this section except as
10 authorized herein or as otherwise authorized by law or court order.
11 The provisions of this section shall not be deemed to prohibit
12 disclosure of a test result to the person tested.

13 e. Persons who perform tests ordered pursuant to subsection a. of
14 this section in accordance with accepted medical standards for the
15 performance of such tests shall be immune from civil and criminal
16 liability arising from their conduct.

17 f. This section shall not be construed to preclude or limit any other
18 testing for AIDS or infection with the HIV or any other related virus
19 identified as a probable causative agent of AIDS which is otherwise
20 permitted by statute, court rule or common law.

21

22 ²[14.] 8.² (New section) a. In addition to any other disposition
23 made pursuant to law, a court shall order a juvenile charged with
24 delinquency or adjudicated delinquent for an act which, if committed
25 by an adult would constitute a crime, a disorderly persons offense or
26 a petty disorderly persons offense, to submit to an approved
27 serological test for acquired immune deficiency syndrome (AIDS) or
28 infection with the human immunodeficiency virus (HIV) or any other
29 related virus identified as a probable causative agent of AIDS if:

30 (1) in the course of the commission of the act, including the
31 immediate flight thereafter or during any investigation or arrest related
32 to that act, a law enforcement officer, the victim or other person
33 suffered a prick from a hypodermic needle, provided there is probable
34 cause to believe that the juvenile is an intravenous user of controlled
35 dangerous substances; or

36 (2) in the course of the commission of the act, including the
37 immediate flight thereafter or during any investigation or arrest related
38 to that act, a law enforcement officer, the victim or other person had
39 contact with the juvenile which involved or was likely to involve the
40 transmission of bodily fluids.

41 The court may order a juvenile to submit to an approved serological
42 test for AIDS or infection with the HIV or any other related virus
43 identified as a probable cause agent of AIDS if in the course of the
44 performance of any other law enforcement duties, a law enforcement
45 officer suffers a prick from a hyperdermic needle, provided that there
46 is probable cause to believe that the defendant is an intravenous user

1 of controlled dangerous substances, or had contact with the defendant
2 which involved or was likely to involve the transmission of bodily
3 fluids. The court shall issue such an order only upon the request of the
4 law enforcement officer, victim of the offense or other affected person
5 made at the time of indictment, charge or conviction. If a county
6 prosecutor declines to make such an application within 72 hours of
7 being requested to do so by the law enforcement officer, the law
8 enforcement officer may appeal to the Division of Criminal Justice in
9 the Department of Law and Public Safety for that officer to bring the
10 application. The juvenile shall be ordered by the court to submit to
11 such repeat or confirmatory tests as may be medically necessary.

12 b. A court order issued pursuant to subsection a. of this section
13 shall require testing to be performed as soon as practicable by the
14 Executive Director of the Juvenile Justice Commission pursuant to
15 authority granted to the executive director by sections 6 and 10 of
16 P.L.1976, c.98 (C.30:1B-6 and 30:1B-10) or by a provider of health
17 care or at a health care facility licensed pursuant to section 12 of
18 P.L.1971, c.136 (C.26:2H-12). The order shall also require that the
19 results of the test be reported to the offender, the appropriate Office
20 of Victim-Witness Advocacy if a victim of an offense is tested , and
21 the affected law enforcement officer. Upon receipt of the result of a
22 test ordered pursuant to subsection a. of this section, the Office of
23 Victim-Witness Advocacy shall provide the victim with appropriate
24 counseling, referral for counseling and if appropriate, referral for
25 health care. The office shall notify the victim or make appropriate
26 arrangements for the victim to be notified of the test result.

27 c. In addition to any other disposition authorized, a court may
28 order a juvenile at the time of sentencing to reimburse the State for the
29 costs of the tests ordered by subsection a. of this section.

30 d. The result of a test ordered pursuant to subsection a. of this
31 section shall be confidential and health care providers and employees
32 of the Juvenile Justice Commission, the Office of Victim-Witness
33 Advocacy, a health care facility or counseling service shall not disclose
34 the result of a test performed pursuant to this section except as
35 authorized herein or as otherwise authorized by law or court order.
36 The provisions of this section shall not be deemed to prohibit
37 disclosure of a test result to the person tested.

38 e. Persons who perform tests ordered pursuant to subsection a. of
39 this section in accordance with accepted medical standards for the
40 performance of such tests shall be immune from civil and criminal
41 liability arising from their conduct.

42 f. This section shall not be construed to preclude or limit any other
43 testing for AIDS or infection with the HIV or any other related virus
44 identified as a probable causative agent of AIDS which is otherwise
45 permitted by statute, court rule or common law.

46 ²[15. (New section) Whenever a county correctional officer is a

1 defendant in any action or legal proceeding arising out of and directly
2 related to or incident to the lawful exercise of his official duties, the
3 governing body of the county shall provide that officer with the
4 necessary means for the defense of such action or proceeding, other
5 than for his defense in a disciplinary proceeding instituted against him
6 by the county or in a criminal proceeding instituted as a result of a
7 complaint on behalf of the county. Notwithstanding the provisions of
8 this section, if any such disciplinary or criminal proceeding instituted
9 by or on the complaint of the county, or if any other legal proceeding
10 in which the officer is the defendant shall be dismissed or finally
11 determined in favor of the officer, the officer shall be reimbursed for
12 the expense of his defense.]²

13

14 ²[16.] 9.² (New section) a. In addition to any disposition made
15 pursuant to the provisions of Title 2C of the New Jersey Statutes, any
16 person convicted of a crime shall be assessed a penalty of \$30.

17 b. In addition to any other disposition made pursuant to the
18 provisions of section 24 of P.L.1982, c.77 (C.2A:4A-43) or any other
19 statute indicating the dispositions that may be ordered for
20 adjudications of delinquency, a juvenile adjudicated delinquent for an
21 offense which if committed by an adult would be a crime shall be
22 assessed a penalty of \$15.

23 c. The penalties assessed under subsections a. and b. of this section
24 shall be collected as provided for the collection of fines and restitution
25 in section 3 of P.L.1979, c.396 (C.2C:46-4) and forwarded to the
26 State Treasury for deposit in a separate account to be known as the
27 "Law Enforcement Officers Training and Equipment Fund." The
28 penalty assessed in this section shall be collected only after a penalty
29 assessed in section 2 of P.L.1979, c.396 (C.2C:43-3.1) and any
30 restitution ordered is collected.

31 The fund shall be used to support the development and provision of
32 basic and in-service training courses for law enforcement officers by
33 police training schools approved pursuant to P.L.1961, c.56
34 (C.52:17B-66 et seq.). In addition, the fund shall also be used to
35 enable police training schools to purchase equipment needed for the
36 training of law enforcement officers. Distributions from the fund shall
37 only be made directly to such approved schools.

38 d. The Police Training Commission in the Department of Law and
39 Public Safety shall be responsible for the administration and
40 distribution of the fund pursuant to its authority under section 6 of
41 P.L.1961, c.56 (C.52:17B-71).

42 e. An adult prisoner of a State correctional institution who does
43 not pay the penalty imposed pursuant to this section shall have the
44 penalty deducted from any income the inmate receives as a result of
45 labor performed at the institution or any type of work release program.
46 If any person, including an inmate, fails to pay the penalty imposed

1 pursuant to this section, the court may order the suspension of the
 2 person's driver's license or nonresident reciprocity privilege, or
 3 prohibit the person from receiving or obtaining a license until the
 4 assessment is paid. The court shall notify the Director of the Division
 5 of Motor Vehicles of such an action. Prior to any action being taken
 6 pursuant to this subsection, the person shall be given notice and a
 7 hearing before the court to contest the charge of the failure to pay the
 8 assessment.

9
 10 ²[¹17.] ²10. ²(New section) ²[A] Every² law enforcement agency
 11 ²[, as defined in section 1 of P.L. , c. (C.)(now pending
 12 before the Legislature as this bill),]² shall adopt and implement
 13 ²guidelines which shall be consistent with² the guidelines governing
 14 the "Internal Affairs Policy and Procedures" of the Police
 15 Management Manual promulgated by the Police Bureau of the
 16 Division of Criminal Justice in the Department of Law and Public
 17 Safety² , and shall be consistent with any tenure or civil service laws,
 18 and shall not supersede any existing contractual agreements² .¹

19
 20 ¹[17.] ²[18.1] ²11. ²This act shall take effect ²[immediately] on the
 21 120th day following enactment².

22
 23
 24 _____
 25
 26 "Law Enforcement Officers' Protection Act."